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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

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**MAR 31 1997**

Federal Communications Commission  
Office of Secretary

In the Matter of

International Settlement Rates

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IB Docket No. 96-261

**REPLY COMMENTS OF WORLDCOM, INC.**

**WORLDCOM, INC.**

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**FEDERAL COMMUNICATIONS COMMISSION**  
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**REPLY COMMENTS OF WORLDCOM, INC.**

WorldCom, Inc. ("WorldCom") hereby files its reply comments in response to comments filed by other parties on February 7, 1997 concerning the Notice of Proposed Rulemaking, FCC 96-484 ("Notice"), released by the Commission on December 19, 1996 in the above-captioned proceeding.

**I. INTRODUCTION**

In its initial comments in this proceeding, WorldCom stated that it strongly supported the adoption of settlement rate benchmarks to (1) reduce high international settlement rates closer to economic cost, and (2) alleviate potential competitive distortions, particularly inbound settlement rate bypass.<sup>1</sup> Now that the World Trade Organization ("WTO") agreement on basic telecommunications has been signed -- an outcome WorldCom strongly supported<sup>2</sup> -- adoption and implementation of properly designed settlement rate benchmarks is necessary to alleviate the incentive to engage in one-way settlement rate bypass.

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<sup>1</sup> Comments of WorldCom, Inc., IB Docket No. 96-261, filed February 7, 1997, at 2-4 ("WorldCom Comments").

<sup>2</sup> See News Releases, "WorldCom Calls For Global Market Access For Telecommunications Services," dated January 29, 1997; "WorldCom Applauds Successful Completion of World Trade Organization Agreement," dated February 15, 1997.

WorldCom supports the Commission's proposal to authorize carriers to provide international facilities-based switched or private line service from the United States to an "affiliated" market so long as the settlement rate offered by the affiliated carrier in that market is within the benchmark range.<sup>3</sup> WorldCom also supports imposing strict conditions on the provision of international simple resale ("ISR") on any given route. As a variation on the Commission's proposed conditions, WorldCom proposed a three-prong test that would allow the provision of ISR on any route where (1) ISR is already authorized, (2) the settlement rate for more than 50% of the outbound traffic is within the applicable benchmark, or (3) the Commission determines that the foreign market offers equivalent opportunities for ISR.<sup>4</sup>

WorldCom also supports adopting:

- o benchmark rates based, at least initially, on foreign carriers' tariffed component prices;
- o a black line transition schedule to give carriers a much-needed pathway of certainty leading to cost-based settlement rates;
- o a mandatory "glide path" requiring carriers to make reasonable progress in moving toward the benchmarks during the transition period;
- o a "no waiver" transition schedule that preserves certainty and prevents undue delay and confusion; and
- o timely and effective Commission enforcement procedures.

Over 70 parties filed initial comments in this proceeding. Rather than address every issue raised by other commenters, WorldCom will focus instead on a few key points.

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<sup>3</sup> WorldCom Comments at 15-18.

<sup>4</sup> WorldCom Comments at 18-20.

**II. ALL U.S. INTERNATIONAL CARRIERS STRONGLY SUPPORT THE CONCEPT OF SETTLEMENT RATE BENCHMARKS, AND GENERALLY AGREE THAT BENCHMARKS SHOULD BE BASED ON COUNTRY-SPECIFIC TARIFFED COMPONENT PRICING WITH FIXED, UNWAIVABLE TRANSITION PERIODS AND MANDATORY GLIDE PATHS**

The Commission's settlement rate benchmarks proposal finds strong support domestically. In particular, all other U.S. international long distance carriers filing comments in this proceeding -- including AT&T, MCI, Sprint, and Frontier -- joined WorldCom in supporting the concept of settlement rate benchmarks.<sup>5</sup> The U.S. Trade Representative, the Department of Commerce, and the Department of State also joined to "express... support for the goals and objectives" of the FCC's Notice, and "applaud the Commission's investigations into the various mechanisms for achieving cost-based accounting rates."<sup>6</sup>

Moreover, U.S. international long distance carriers generally agree with WorldCom on many of the key components of an effective benchmarks plan. In particular, U.S. carriers support the use of tariffed component pricing ("TCP") as the basis for establishing the benchmarks;<sup>7</sup> fixed transition periods;<sup>8</sup> mandatory glide paths;<sup>9</sup> and a "no waiver" policy except

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<sup>5</sup> See Comments of AT&T Corp. ("AT&T"); Comments of MCI Telecommunications Corporation ("MCI"); Comments of Sprint Corporation ("Sprint"); Comments of Frontier Corporation ("Frontier").

<sup>6</sup> Letter from Ambassador Jeffrey Lang, Deputy U.S. Trade Representative, Office of the U.S. Trade Representative, Honorable Larry Irving, Assistant Secretary for Communications and Information, Department of Commerce, and Ambassador Vonya McCann, U.S. Coordinator, International Communications and Information Policy, Department of State, to Reed Hundt, Chairman, FCC, dated February 7, 1997, at 1, 2.

<sup>7</sup> AT&T Comments at 28; MCI Comments at 3; Sprint Comments at 10-13; Frontier Comments at 1-2.

<sup>8</sup> AT&T Comments at 19-20; MCI Comments at 6; Sprint Comments at 17.

<sup>9</sup> AT&T Comments at 20; MCI Comments at 7; Sprint Comments at 17.

in exceptional circumstances.<sup>10</sup> The carriers support the Commission's proposal that a foreign carrier be entitled to challenge the benchmark applied to it if the foreign carrier believes (and can demonstrate) that the benchmark does not appropriately reflect its cost of providing service.<sup>11</sup> Excepting Frontier,<sup>12</sup> U.S. carriers also favor a country-by-country approach to setting benchmark levels.<sup>13</sup>

WorldCom supports a black-line settlement rate benchmarks test for the provision of international facilities-based service and ISR. AT&T and MCI also support using a benchmarks test, but both carriers would retain the FCC's effective competitive opportunities ("ECO") test for facilities-based entry, and the equivalency test for ISR.<sup>14</sup> Adoption of settlement rate benchmarks is also a key component of Sprint's proposal, although Sprint would also use a public interest test to govern facilities-based entry.<sup>15</sup>

For WTO countries, WorldCom believes that the Commission's benchmarks proposal, coupled with vigorous enforcement of the International Settlements Policy ("ISP"), provides an appropriate, narrowly-tailored means of combating competitive distortion. In particular, the Commission's proposal, if adopted, would lead to lower, cost-based settlement

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<sup>10</sup> AT&T Comments at 18-19; MCI Comments at 7.

<sup>11</sup> See MCI Comments at 5; Sprint Comments at 19.

<sup>12</sup> Frontier Comments at 3.

<sup>13</sup> AT&T Comments at 15-17; MCI Comments at 4; Sprint Comments at 15-16.

<sup>14</sup> AT&T Comments at 36, 43; MCI Comments at 9-12. By contrast, WorldCom proposes to apply the equivalency test as an optional and inclusive test for the provision of ISR to and from WTO member countries. WorldCom Comments at 18-20.

<sup>15</sup> Sprint Comments at 22.

rates and address potential competitive distortions, without unduly restricting or hindering the ability of foreign carriers to enter the U.S. market. Adoption of the FCC's proposal also would satisfy all carriers' understandable need for certainty. In the case of ISR, WorldCom suggests adopting its proposed three-prong test, including use of the equivalency test as an alternative means of determining when ISR should be authorized on a particular route. For non-WTO countries, however, WorldCom agrees with AT&T and MCI that ISR should not be authorized for a route unless and until both the equivalency and the benchmarks tests are met.

While the U.S. international facilities-based carriers strongly support the FCC's benchmark proposals, virtually all of the non-U.S. commenters oppose the benchmarks, based on a variety of arguments. WorldCom believes that the Commission has more than adequate authority under the Communications Act to adopt the benchmarks, that the benchmarks are not inconsistent with U.S. obligations to the International Telecommunications Union ("ITU"), and, in fact, that the FCC's proposals to reduce above-cost settlement rates are fully consistent with the policy goals of the ITU. Opponents of benchmarks also raise various substantive arguments against their adoption. WorldCom does not believe that any of these arguments diminish the FCC's overriding public interest justifications for adopting and implementing settlement rate benchmarks. WorldCom focuses below on two of the arguments raised by opponents to the benchmarks.

### **III. EMPHASIS ON THE ABSOLUTE SIZE OF THE SETTLEMENTS DEFICIT IS MISPLACED**

It is apparent to WorldCom that many parties to this proceeding focus too extensively on the absolute level of the U.S. settlements deficit. Unfortunately, it may have been the Commission itself that initiated this misplaced focus by discussing the size of the "imbalance" between U.S. outbound and inbound minutes.<sup>16</sup> Some of the U.S. carriers, as well as many of the foreign commenters, also focus on the level of the deficit. The foreign commenters rightfully point out that the level of the U.S. settlements deficit is significantly affected by a variety of factors other than the level of settlement rates, including, in particular, new services, such as home country direct, call back service, and refile and reorigination of traffic.<sup>17</sup> The increasing use of these services (much of which is the result of high overseas collection rates and low U.S. collection rates) tends to increase the absolute level of the settlements deficit.

The real issue to be addressed by settlement rate benchmarks is not the absolute level of the U.S. settlements deficit, but rather the above-cost settlement rates charged by many foreign carriers. These high rates distort and hinder the international services market, and will likely become even more significant in the post-WTO world, where the opportunity for competitive distortions, such as inbound bypass of the ISP in order to avoid above-cost

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<sup>16</sup> See, e.g., Notice at para. 8.

<sup>17</sup> See Comments of Deutsche Telecom AG at 7; Comments of Telecom Italia at 5-6; Comments at Telstra Corporation Ltd. ("Telstra") at 2-4; Comments at Kokusai Denshin Denwa Co. Ltd. ("KDD") at 8; Comments of Singapore Telecommunications Ltd. ("Singapore Tel.") at 3-5; Comments of HongKong Telecom International ("HongKong Tel.") at 7-15; Comments of Telefonica de Mexico, S.A. de C.V. ("Telmex") at 14-15; Comments of Telefonica Del Peru at 10-11; Comments of COMTELCA at 10.

settlement rates, will unduly affect carriers in competitive markets absent appropriate safeguards. Thus, in this proceeding the Commission should refrain from focusing needlessly on the absolute level of current settlement deficits.

#### **IV. A MANDATORY "FLOW-THROUGH" OF SETTLEMENT RATE REDUCTIONS IS UNNECESSARY AND INFEASIBLE**

In an attempt to divert attention from their own high settlement rates, many foreign carriers argue that U.S. carriers do not reduce their rates in response to settlement rate reductions, and therefore, settlement rate reductions should not be mandated because they will benefit only U.S. carriers and not their customers.<sup>18</sup> Relatedly, a few parties assert that the settlement rate reductions will not benefit the U.S. public interest unless the FCC requires U.S. international carriers to "flow-through" these reductions to their customers.<sup>19</sup>

WorldCom is strongly opposed to any mandatory requirement that settlement rate reductions be "flowed through," because such a requirement is completely unnecessary in the highly competitive U.S. telecommunications market. WorldCom provides service in the carrier-to-carrier and commercial markets. Both of these markets are highly competitive, and margins are very thin. Faced with intense competitive pressures from U.S. and foreign carriers, WorldCom is not in a position to "pocket" settlement rate reductions.

In addition, the mandatory dollar-for-dollar "flow-through" of settlement rate reductions is not administratively feasible. For international traffic, gross reductions in

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<sup>18</sup> See Telefonica Del Peru Comments at 9-10; Telstra Comments at 5; HongKong Tel. Comments at 11-12, 19-21; IDC Comments at 3,6; KDD Comments at 10.

<sup>19</sup> See TRA Comments at 17; Singapore Tel. Comments at 10; VSNL Comments at 5.



settlement rates are rarely equal to net reductions. This is because net reductions are dependent on the prevailing inbound/outbound traffic ratio, which fluctuates considerably from month to month. Further, a "flow-through" requirement would insert the Commission into a rate setting role in a competitive market. This would be contrary to the deregulatory dictates of the Telecommunications Act of 1996,<sup>20</sup> and inappropriate in light of the Commission's concerted attempts to extricate itself from setting rates in telecommunications markets.

Therefore, the Commission should decline to require carriers to pass through settlement rate reductions in their collection rates. Instead, the Commission should devote its energies to promulgating and enforcing effective settlement rate benchmarks designed to reduce international settlement rates closer to economic cost, and alleviate potential competitive distortions, particularly inbound settlement rate bypass.

## **V. CONCLUSION**

For the reasons stated above and in WorldCom's initial comments in this proceeding, WorldCom urges the Commission to promptly adopt a benchmarks approach marked

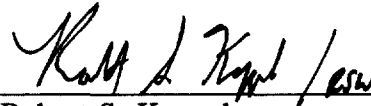
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<sup>20</sup> See, e.g., Preamble, Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) (1996 Act is designed to "promote competition and reduce regulation...."); Conference Report, S. 652, dated February 1, 1996, at 1 (1996 Act provides for a "pro-competitive, de-regulatory national policy framework...."); 47 U.S.C. § 160 (a) (FCC required to forebear from applying unnecessary regulations to carriers).

by certainty, equity, and simplicity. WorldCom looks forward to assisting the Commission in the successful implementation and enforcement of such a benchmark plan.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read "Robert S. Koppel / rs", is written over a horizontal line.

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March 31, 1997

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## **CERTIFICATE OF SERVICE**

I, Richard S. Whitt, hereby certify that I have this 31st day of March, 1997 delivered, by messenger, a copy of the foregoing "Reply Comments of WorldCom, Inc." to the following:

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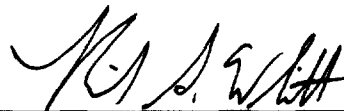
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